

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3639 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE PRADIP KUMAR SARKAR

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

SURAJKUNVARBA RATHODJI

Versus

STATE OF GUJARAT

Appearance:

MR Mehul Shah for Mr. MM JADEJA for Petitioners
Ms. B.R. Gajjar, GOVT PLEADER for Respondent No. 1

CORAM : MR.JUSTICE PRADIP KUMAR SARKAR

Date of decision: 10/04/2000

ORAL JUDGEMENT

The five petitioners filed the present petition
claiming interest at the rate of 3 % on the principal

amount of compensation awarded in their favour. It is submitted by the petitioners that, after coming in to force of the Jagir Abolition Act, present petitioners along with three others claimed compensation by filing eight separate applications to the Collector. Against the award of compensation of the Collector present petitioners and other three persons who are similarly situated preferred appeal to the Gujarat Revenue Tribunal regarding quantum of compensation. The Revenue Tribunal ultimately granted compensation to the present petitioners but did not pass any order regarding payment of interest. However in the meantime the other three petitioners moved the Tribunal by an appeal and in that appeal of other three persons the Revenue Tribunal awarded compensation to them. The Tribunal also passed an order for payment of interest at the rate of 3 % per annum from 1-8-1954, that is the date on which Jagir Abolition Act came in to force.

After the order of the Revenue Tribunal passed in three appeals on 13-9-1974 present five petitioners moved the Tribunal to pay interest at the rate of 3 % on the compensation awarded by the Tribunal. Learned counsel for the petitioners submitted that, it has been decided by this Court in 11 G.L.R. 956 that the interest is payable on the compensation amount. It is also submitted by learned counsel for the petitioners that, the decision of this High Court has been challenged by filing Special Leave Petition before the Supreme Court and the Supreme Court in 17 G.L.R. 948 (State of Gujarat Vs. Gujarat Revenue Tribunal & Ors) decided that the interest at the rate of 3 % is payable on the compensation amount, but no interest is payable on the amount of interest already calculated on the principal amount.

In the present case the petitioners made representation to the Government for payment of interest at the rate of 3% as awarded by the Tribunal in other similar cases, but the prayer of the petitioners have been rejected by the Government on the ground that, in the order of the Tribunal nothing has been mentioned about payment of 3% interest to the petitioners.

Having felt aggrieved by the order of the Government, the petitioners have moved this Court for a direction to the Government for payment of interest at the rate of 3 % on the compensation awarded to the petitioners with effect from 1-8-1954, that is the date on which the Act came in to force. It is true that although the provisions of Jagir Abolition Act came in to force from 1-8-1954, the dispute regarding payment of

compensation to the petitioners and others has not been decided immediately after the Act came in to force, and as a result the compensation has been paid to the petitioners after a long time from the date of coming in to force of the aforesaid Act. Having regard to this delayed payment the Apex Court has decided that the parties are entitled to get compensation at the rate of 3 % on the awarded amount of compensation. Having regard to the decision passed by this Court in 11 G.L.R. 956 and the decision of the Apex Court in 17 G.L.R. 948, I am of the view that the present petitioners should have been paid compensation with interest at the rate of 3 %, especially when the similarly situated persons have been awarded interest at the rate of 3 % on the compensation amount. I do not think that the State respondent has acted correctly in refusing the payment of interest at the rate of 3 % to the petitioners. It is however admitted by learned counsel for the petitioners that the Act do not provide any provision regarding payment of interest from any particular date. However the decision of the Apex Court in this regard is binding on the Government. Learned counsel submitted that, it is decided by the Apex Court that the interest is to be paid on the amount of principal compensation at the rate of 3 % because of delayed payment of compensation to the petitioners. Since the present petitioners are on the same footing of the other three persons, who were granted interest at the rate of 3 %, I am of the view that the Government should allow simple interest at the rate of 3 % to the present petitions on the amount of compensation. Accordingly the Government should reconsider the prayer of the petitioners and make payment of compensation at the rate of 3 % to present five petitioners on the amount of compensation paid to them.

The State Government is accordingly directed to reconsider the prayer of the petitioners for payment of interest at the rate of 3 % on the compensation amount from 1-8-1954, that is the date on which the Act came in to force, till the date of payment of compensation to the petitioners. However, since the interest has not been paid on the date of compensation made to the petitioners, Government may also consider the payment of interest on the principal amount till the date of payment of interest in view of the fact that the interest has not been paid on the date on which the compensation amount was paid to the petitioners. State Government is directed to consider the prayer of the petitioners for payment of aforesaid interest within a period of three months from today. Copy of the present orders be sent to the respondent Government immediately. This petition is

accordingly allowed. Rule made absolute to the aforesaid extent. However, I make no order as to costs.

Dt: 10-4-2000

(P.K. Sarkar, J)

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